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LEGISLATIVE RESEARCH COMMISSION

MANAGEMENT OF WASTE AND OTHER ENVIRONMENTAL PROGRAMS

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REPORT TO THE 1981 GENERAL ASSEMBLY OF NORTH CAROLINA

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STATE OF NORTH CAROLINA
LEGISLATIVE RESEARCH COMMISSION
STATE LEGISLATIVE BUILDING
RALEIGH 27611

January 14, 1981

TO MEMBERS OF THE 1981 GENERAL ASSEMBLY:

The Legislative Research Commission herewith reports to the 1981 General Assembly on the management of waste disposal, hazardous and toxic substances, air quality, noise pollution, and pesticides. The report is made pursuant to Chapter 916 of the 1979 Session Laws.

This report was prepared by the Legislative Research Commission's Study Committee on Management of Waste Disposal, Hazardous and Toxic Substances, Air Quality, Noise Pollution, and Pesticides and it is transmitted by the Legislative Research Commission for their consideration.

Respectfully submitted,

Carl J. Stewart, Jr.

W. Craig Lawing

Cochairmen
Legislative Research Commission

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INTRODUCTION

The Legislative Research Commission, created by Article 6B of the General Statutes Chapter 120, is authorized pursuant to the direction of the General Assembly "to make or cause to be made such studies of and investigations into governmental agencies and institutions and matters of public policy as will aid the General Assembly in performing its duties in the most efficient and effective manner" and "to report to the General Assembly the results of the studies made," which reports "may be accompanied by the recommendations of the Commission and bills suggested to effectuate the recommendations." G.S. 120-30.17. The Commission is chaired by the Speaker of the House and the President Pro Tempore of the Senate, and consists of five Representatives and five Senators, who are appointed respectively by the Cochairmen. G.S. 120-30.10 (a).

At the direction of the 1979 General Assembly, the Legislative Research Commission has undertaken studies of numerous subjects which were grouped into broad categories. (See Appendix A for a list of the Commission members.) Pursuant to G.S. 12-30.10(b) and (c), the Commission Cochairmen appointed study committees consisting of legislators and public members to conduct the studies. Each member of the Legislative Research Commission was delegated the responsibility of overseeing one group of studies and causing the findings and recommendations of the various committees to be reported to the Commission. In addition, one Senator and one Representative from each study committee were designated Cochairmen. (See Appendix B for a list of the Study Committee members.)

Senate Bill 373, which became Chapter 916 of the 1979 Session Laws (Appendix C) authorizes the Legislative Research Commission to study the management of waste disposal, hazardous and toxic substances, air quality, noise, and pesticides. The bill pointed out that responsibility for the management of programs in these areas is currently divided among the Departments of Human Resources, Natural Resources and Community Development, Labor, and Agriculture. Also, the bill stated that the present organization of these programs is fragmented among interrelated program areas and that an integrated approach to the management of the programs is essential.

II. RESULTS OF RECOMMENDATIONS IN THE COMMITTEE'S INTERIM REPORT

In the Interim Report to the 1980 Session of the General Assembly, the Study Committee made recommendations to enhance coordination among environmental programs and to alleviate specific problems that had come to the attention of the Committee. The General Assembly enacted legislation in response to some of the Committee's recommendations. Other recommendations require consideration by the General Assembly in the 1981 Session.

Coordination of Budget Requests

In response to the recommendation of the Study Committee, the General Assembly included a provision in Senate Bill 1005, Ch. 1212 of the 1979 Session Laws, to require the Departments of Agriculture, Human Resources, and Natural Resources and Community Development to coordinate any requests for additional funds in the areas of environmental management and environmental health.

Study of Laboratory Operations

In response to the recommendation of the Study Committee, the General Assembly included in Senate Bill 1005, Ch. 1212 of the 1979 Session Laws, a provision to require the Office of Administrative Analysis of the Department of Administration to conduct a study of the laboratories operated by the Departments of Agriculture, Human Resources, and Natural Resources and Community Development. The Office of Administrative Analysis is currently conducting the study and plans to issue a report by March 1, 1981, as required by the legislation.

Amendment to the Oil Pollution and Hazardous Substances Control Act

In response to the Committee's recommendation, the General Assembly amended the Oil Pollution and Hazardous Substances Control Act of 1978 to conform the statute to changes in the federal Oil Pollution and Hazardous Substances Control Act. Senate Bill 973, Ch. 1209 of the 1979 Session Laws.

Toxic and Hazardous Substances Task Force

As suggested by the Secretary of Crime Control and Public Safety, the Study Committee recommended legislation to abolish the Toxic and Hazardous Substances Task Force and place direct responsibility on the Secretary of Crime Control and Public Safety to take charge of the initial response by the State to emergencies created by man-made or natural disasters. In response to the Committee's recommendation, the General Assembly enacted House Bill 1744, Ch. 1310 of

of the 1979 Session Laws. Issues concerning the siting of disposal facilities, which had been the responsibility of the Toxic and Hazardous Substances Task Force, are now under consideration by the Governor's Task Force on Waste Management.

III. ISSUES REQUIRING FURTHER CONSIDERATION

Jurisdiction over Sanitary Sewage Disposal Systems

Section 130-160 of the General Statutes provides that any sanitary sewage disposal system with 3,000 gallons or less design capacity, the effluent from which is not discharged to the surface waters, shall be approved under rules promulgated by the Commission for Health Services (DHR). All other sanitary sewage disposal systems are approved under rules promulgated by the Environmental Management Commission.

In some parts of the State, particularly in coastal areas, condominiums, apartments, and large motels are using several systems each covering six or fewer housing units and with individual capacities of less than 3,000 gallons. As a result the systems are regulated by local health departments, thus avoiding the more stringent coastal requirements of the Environmental Management Commission.

The basic issue revolves around the protection of groundwater, surface water, and estuarine shellfish waters from pollution in areas without central sewer systems that are intensively developed. Obviously, the main problem area is the coast.

The Department of Natural Resources and Community Development is a state enforcement agency with a statewide regulatory commission, the Environmental Management Commission. The Department of Human Resources and local health departments, through which small system permits are granted, are not enforcement oriented agencies. Local health departments are subject to local pressures when considering the

issuance or denial of permits for disposal systems. Consequently, enforcement by local health departments can vary from county to county.

The Environmental Management Commission has special regulations applicable to coastal waste treatment disposal, which limit the amount of untreated sewage that land can be expected to absorb. The effect is to require treatment for high density development. By splitting developments such as apartment complexes into several systems, developers avoid this treatment expense and come under the jurisdiction of the less stringent requirements of local health departments.

A large number of subdivided properties were "grandfathered in" when the Division of Health Services began enforcing their regulations.

To address the issue of septic tank/wastewater disposal permitting and the possible circumvention of legislative intent, the Study Committee recommended legislation to define more clearly the regulatory jurisdictions of the local health departments and the Environmental Management Commission. In accordance with the Committee's recommendation, House Bill 1745 was introduced in the 1980 Session of the General Assembly. The bill was reported favorably by the House Committee on Water and Air Resources but was re-referred to the Committee. The Department of Natural Resources and Community Development has indicated its support for the legislation and the Department of Human Resources has indicated its support, in principle, of the legislation. However, the Department of Human Resources is currently

developing more comprehensive legislation that will address this issue. The Department of Human Resources plans to coordinate its legislative proposal with the Department of **Natural Resources and Community Development.**

Recommendation

The Study Committee recommends that the General Assembly enact legislation to define clearly the regulatory jurisdiction of the local health departments and the Environmental Management Commission with respect to sanitary sewage disposal systems.

Fuel Tax Refund for Solid Waste Vehicles

G.S. 105-446.5 provides a refund of thirty-three and one-third percent of the taxes paid on motor fuels used by concrete mixing vehicles. The justification for the refund is that fuel is consumed in mixing the concrete as distinguished from propelling the vehicles on the highways. Solid waste vehicles consume fuel to compact the solid waste as distinguished from propelling the vehicle. Arizona, California, Colorado, Florida, Illinois, Ohio and Oregon have enacted some form of fuel tax exemption for solid waste vehicles. The Committee heard testimony indicating that at least one-third of the fuel consumed by a typical solid waste vehicle was for compacting the waste. The impact on the Highway Fund of a refund was estimated at between $50,000 and $100,000.

Recommendation

The Study Committee recommends that the General Assembly enact legislation to extend the fuel tax refund for concrete mixer vehicles to solid waste vehicles.

The following legislation would accomplish this purpose:

A BILL TO BE ENTITLED

AN ACT TO AMEND CHAPTER 105 OF THE GENERAL STATUTES TO EXTEND THE FUEL TAX REFUND FOR CONCRETE MIXER VEHICLES TO SOLID WASTE VEHICLES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-446.5 is amended by rewriting the catchline to read: "Refund of taxes paid on motor fuels used by concrete mixing vehicles and solid waste vehicles."

Sec. 2. G.S. 105-446.5 as it appears in 1979 Replacement Volume 2D is amended by rewriting lines 8 and 9 to read as follows:

"the truck and concrete mixer.

(b) Any person, association, firm, or corporation who shall purchase motor fuels, as defined in this Article, for the purpose of use, and the same is actually used to compact solid waste, as distinguished from propelling such vehicle, shall be reimbursed at the rate of thirty-three and one-third percent (33 1/3%) of eight cents (8¢) per gallon of the tax levied under this Article on all motor fuels used in the operation of the truck and solid waste compactor.

(c) The refund provided in subsections (a) and (b) shall be upon the following conditions and in the following manner:"

Sec. 3. Subdivision (4) of G.S. 105-446.5 as it appears in 1979 Replacement Volume 2D is amended by deleting the words "for the purpose of propelling a concrete mixer on the highways as distinguished from mixing concrete" and inserting in lieu thereof the words "for the purpose of propelling a concrete mixer or solid waste vehicle on the highways as distinguished from mixing concrete or compacting solid waste."

Sec. 4. G. S. 105-446.5 is amended by renumbering subsection (b) as subsection (d).

Sec. 5. Subdivision (1) of G.S. 105-446.5(a) as it appears in 1979 Replacement Volume 2D is amended by

rewriting the first sentence to read: "Application for reimbursement for each preceding calendar year shall be filed with the Secretary of Revenue before April 15."

Sec. 6. This act is effective January 1, 1982, and shall apply to taxes on motor fuels purchased after that date.

Coordination Among Environmental Programs

The Study Committee in its Interim Report to the 1980 Session of the General Assembly discussed the need for coordination among the departments of State government with respect to environmental programs. (The division of functions among the departments has been documented in Environmental Management in North Carolina, Volume II, Office of the Governor, August, 1980). In its interim report the Study Committee made the following finding:

> "The Committee finds that there is pressing need for coordination with respect to environmental programs in nonemergency situations. These programs are interrelated and an integrated approach to environmental management is essential. Effective coordination among the various programs is needed with respect to both day-to-day activities and long-range planning."

The Study Committee recommended that:

> "the Executive Branch, in the immediate future, establish a committee or other mechanism for coordination of environmental programs. The mechanism should be designed to assure an integrated approach to environmental management, rather than merely addressing individual problems of coordination as they arise."

Article III, Sec. 5, Clause 10, of the Constitution of North Carolina provides a procedure which could be used to make any organizational changes necessary to enhance coordination among environmental programs:

"The General Assembly shall prescribe the functions, powers, and duties of the administrative departments and agencies of the State and may alter them from time to time, but the Governor may make such changes in the allocation of offices and agencies and in the allocation of those functions, powers and duties as he considers necessary for efficient administration. If those changes affect existing law, they shall be set forth in executive orders, which shall be submitted to the General Assembly not later than the sixtieth calendar day of its session, and shall become

effective and shall have the force of law upon adjournment sine die of the session, unless specifically modified by joint resolution of both houses of the General Assembly."

The Study Committee reiterates its finding that there exists a pressing need for coordination with respect to environmental programs.

Recommendation

The Study Committee recommends that the Executive Branch make necessary changes to assure an integrated approach to environmental management in North Carolina.

Waste Management

North Carolina is ranked as the 11th largest generator of hazardous waste in the nation. However, there are no approved facilities in North Carolina for the treatment and disposal of hazardous waste. North Carolina ranks fourth in the nation in the total volume of low-level radioactive wastes generated. Yet North Carolina does not have a disposal facility for low-level wastes and the availability of the three remaining sites in the United States is uncertain. In the view of the Committee, the development of a system to manage hazardous and low-level wastes is one of the most crucial and urgent issues facing North Carolina and is a matter requiring attention by the 1981 General Assembly.

The Governor's Task Force on Waste Management was appointed to develop a plan to manage North Carolina's hazardous wastes and low-level nuclear wastes. The Cochairmen of the Study Committee are members of the Governor's Task Force and other members of the Study Committee have attended meetings of the Task Force. Reports have been submitted to the Governor's Task Force by the Technical Advisory Committee on Hazardous Waste Management and the Technical Advisory Committee on Low-level Radioactive Waste Management. The Task Force plans to submit a management plan to the Governor in January along with legislative proposals needed to implement the plan.

Recommendation

The Study Committee recommends that the General Assembly enact legislation in the 1981 Session to provide for the siting of disposal facilities for hazardous wastes and low-level nuclear wastes. The Study Committee also recommends that the General Assembly enact any other legislation that is necessary to implement a comprehensive plan for the management of hazardous wastes and low-level radioactive wastes in North Carolina.

The Study Committee recommends that waste management legislation be given high priority in the 1981 Session.

APPENDIX A

STATE OF NORTH CAROLINA

LEGISLATIVE RESEARCH COMMISSION

STATE LEGISLATIVE BUILDING

RALEIGH 27611

MEMBERSHIP

1979-80

COCHAIRMEN:

House Speaker Carl J. Stewart, Jr.

Senate President Pro Tempore W. Craig Lawing

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Tabor City

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Chapel Hill

LEGISLATIVE RESEARCH COMMISSION

COMMITTEE TO STUDY THE MANAGEMENT OF WASTE DISPOSAL HAZARDOUS AND TOXIC SUBSTANCES, AIR POLLUTION, NOISE POLLUTION, AND PESTICIDES

LRC MEMBER IN CHARGE

Senator Henson P. Barnes

COMMITTEE COCHAIRMEN

Representative Charles Holt

Senator Russell G. Walker

COMMITTEE MEMBERS

Senator Dallas L. Alford, Jr.

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Senator William A. Creech

Representative Eugene W. Merritt

Mr. Lonnie C. Poole, Jr.

Senator Joseph E. Thomas

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 1979
RATIFIED BILL

CHAPTER 916

SENATE BILL 373

AN ACT AUTHORIZING THE LEGISLATIVE RESEARCH COMMISSION TO STUDY THE MANAGEMENT OF WASTE DISPOSAL, HAZARDOUS AND TOXIC SUBSTANCES, AIR QUALITY, NOISE, AND PESTICIDES.

Whereas, responsibility for the management of North Carolina's waste management, hazardous waste and toxic substances, air quality, noise, and pesticides is currently divided among the Departments of Human Resources, Natural Resources and Community Development, Labor, and Agriculture; and

Whereas, an integrated approach to the management of these areas involving several State agencies is essential; and

Whereas, the present organization of these programs is fragmented among interrelated program areas; Now, therefore,
The General Assembly of North Carolina enacts:

Section 1. The Legislative Research Commission is authorized to study the management of waste disposal, hazardous and toxic substances, air quality, noise, and pesticides.

Sec. 2. The commission may study in the following order the present organizatcn for planning and management of waste disposal, (priority I); hazardous and toxic substances (priority II); air quality (priority III); noise (priority IV); pesticides (priority V); in North Carolina and make recommendations to the General Assembly concerning organizational and statutory changes it finds necessary. The commission may include in its study the

impact of the Hazardous Substances Act (1979 Senate Bill 23), and the Toxic Substances Act (1979 House Bill 56).

Sec. 3. The commission may file an interim report with the 1979 General Assembly (Second Session, 1980). The commission may file its final report with the 198[illegible] General Assembly. The final report of the commission shall summarize the information obtained in the course of its inquiry, set forth any findings, conclusions, and recommended administrative or legislative actions necessary for effective and efficient management of the State's waste disposal, hazardous and toxic hazardous and toxic substances, air quality, noise and pesticides. If legislation is recommended, the commission shall prepare and submit with its report appropriate bills.

Sec. 4. This act shall become effective July 1, 1979.

In the General Assembly read three times and ratified, this the 8th day of June, 1979.

JAMES C. GREEN

James C. Green

President of the Senate

CARL J. STEWART, JR.

Carl J. Stewart, Jr.

Speaker of the House of Representatives

Senate Bill 373